



November 2, 2007

TO: All Legislators

FROM: John D. Wiley  
Chancellor

RE: Big Ten Network

Nothing generates more discussion in Wisconsin than a feeling that something is being taken away. The current concerns over the availability of Badger football games on the Big Ten Network are very understandable. I am disappointed that this discussion overshadows the great things the network does for the university.

More than three years in the making, the Big Ten Network is a first-of-its-kind partnership between the member institutions of the Big Ten Conference and a major television provider. The network, launched in August, features a programming lineup of major events unparalleled within college sports TV today – more than 350 live events – including football and men's basketball, as well as more Olympic sports and women's sports programs than have ever been aired before. Additionally, the network will feature hundreds of hours of campus specific, non-athletic programming. With the current and potential viewer reach of the network, our university will gain exposure like we have never seen before.

This agreement that the conference has made to increase its exposure was created as a way to ensure that television revenue each university receives continues. Prior to forming the network, existing contracts with ESPN, ABC and other outlets were expiring, and the new agreements being offered included a significant retreat in exposure and revenue for all schools in the conference. Steady revenue through media agreements is key to ensuring student-athletes in all sports have the opportunity to compete at the highest level.

The formation of the Big Ten Network provided conference member schools a 20-year solution to the revenue and exposure issues. In fact, the agreement, which includes all 11 conference schools, ensures that the revenue generated and returned to schools is used for academic and athletic purposes. At the University of Wisconsin-Madison, the specific non-athletics areas funded include need-based scholarships, libraries and strategic academic collaborations.

Within 30 days of launch, the network was in nearly 30 million homes nationwide – the most successful launch of its kind in cable television history. It is being carried on Direct TV, Dish

Office of the Chancellor

Bascom Hall University of Wisconsin-Madison 500 Lincoln Drive Madison, Wisconsin 53706-1380



THE  
UNITED STATES  
DEPARTMENT OF  
THE ARMY

WASHINGTON, D. C.

OFFICE OF THE SECRETARY

WASHINGTON, D. C.

1917

THE SECRETARY OF THE ARMY  
HAS THE HONOR TO ACKNOWLEDGE  
THE RECEIPT OF YOUR LETTER  
OF THE 10TH INSTANT.

YOUR REQUEST FOR THE  
ISSUE OF A PASS FOR THE  
PURPOSE OF VISITING THE  
ARMY AND NAVAL OBSERVATORY  
AT WASHINGTON, D. C.  
IS HEREBY GRANTED.  
THE PASS IS VALID FOR  
THE PERIOD OF 30 DAYS  
FROM THE DATE OF ISSUANCE.

THE PASS IS VALID FOR  
THE PERIOD OF 30 DAYS  
FROM THE DATE OF ISSUANCE.  
IT IS REQUESTED THAT YOU  
PRESENT THIS PASS TO THE  
OFFICIALS OF THE OBSERVATORY  
AT THE TIME OF YOUR VISIT.

THE SECRETARY OF THE ARMY  
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OFFICE OF THE SECRETARY

WASHINGTON, D. C.

Network, AT&T and approximately 157 cable systems, including 15 in the state of Wisconsin – all are offering the Big Ten Network on their expanded basic lineup, and none is charging an extra fee to subscribers.

Even as negotiations continue with cable operators to carry the network, it is still very frustrating that agreements have not been struck with Time-Warner and Charter, the largest cable providers in Wisconsin. If cable systems in communities like Mt. Horeb, Richland Center and Westby can come to agreement, I can't understand why Time-Warner and Charter have chosen to leave Badger fans in the dark. I understand that Badger fans simply want the games on television and are not much interested in the details of the struggle to negotiate these deals. No one is more frustrated than I am.

The current legislation being discussed to bring the two sides together is clearly born out of frustration. It is this type of public discussion that must continue in order to give Badger fans what they want. Any idea to help facilitate this discussion is welcome. If compromise can be reached on a state budget between two sides with very diverging views, the Big Ten Network issue should be a slam dunk.

Unfortunately, there does not appear to be an immediate solution that would air the upcoming Wisconsin-Ohio State game in Time-Warner and Charter territories, however, it is my hope that this is temporary. It is unacceptable that Badger fans in these two cable territories are being held hostage by decisions Time-Warner and Charter have made to deny the widest distribution of Big Ten Network programming possible on an expanded basic tier of service.

This is an important issue for the university and the entire state. Please feel free to contact me on this issue if you have further questions.

Attachment

cc: Governor Jim Doyle  
UW System President Kevin Reilly

10/10/1971  
10/10/1971  
10/10/1971

The first of the three main areas of the project is the study of the physical environment. This involves the collection of data on the physical features of the area, such as the topography, the climate, and the vegetation. The second area is the study of the human environment, which involves the collection of data on the social and economic conditions of the area. The third area is the study of the cultural environment, which involves the collection of data on the customs and traditions of the area.

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## **Big Ten Network: Myth vs. Fact**

**MYTH:** The Big Ten Network wants to charge Charter, Time Warner Cable and Comcast \$1.10 per subscriber per month.

**FACT:** Neither Charter, Time Warner nor Comcast have ever been presented with a proposal to pay that rate; Big Ten Network's latest proposals to them suggest a rate under \$1 for subscribers inside the eight states and about a dime everywhere else in the country, for a proposed average cost nationally of about 30 cents. Additionally, Big Ten Network is offering cable companies three revenue streams to offset their costs: local advertising time, HD packages and video-on-demand. The Big Ten Network has been flexible enough to be able to reach agreement on our price with 150 other cable operators.

**MYTH:** The Big Ten Network has leftover games.

**FACT:** Big Ten Network has the games Big Ten fans want to see, and more conference games than any other network. If you are a Badger fan and Wisconsin is playing Indiana on Homecoming, you want to see the game. Remember Michigan-Appalachian State? Penn State at Illinois? Northwestern's near upset of Michigan? The Michigan-Appalachian State game on Sept. 2 drew 11.3 percent of the viewers in Detroit who had access to the network. A huge 36.6 percent of Columbus residents with the network watched the Ohio State-Akron game on Sept. 8 - and that was the third highest-rated program in September of the more than 3,000 programs on basic cable. During men's basketball season, the Big Ten Network will televise 140 games, including 64 of the 99 in-conference match-ups and up to 20 games per university. There will be dozens of great basketball games on the Big Ten Network this season, and is the destination for more Big Ten coverage than any other network.

**MYTH:** Big Ten Network is demanding cable companies charge consumers to receive the network.

**FACT:** Cable companies determine the cost of your bill, not programmers like the Big Ten Network. While cable companies like to blame programming costs, those costs account for less than one-third the revenue they receive from subscribers. Comcast customers in Chicago, for example, are experiencing increases of between \$30 and \$138 per year, depending on their package, despite not receiving any new channels and in fact having channels removed.

**MYTH:** The Big Ten Network is taking away games that used to be free.

**FACT:** Last year, eight Big Ten football games and a whopping 85 men's basketball games were not televised at all. During the last two years, 57 football games that viewers would have seen through syndication packages on ESPN-Plus appeared on ESPNU and ESPN360, which are not widely available. The trend away from local

## THE TEN COMMANDMENTS

1. Thou shalt have no other gods before me.

2. Thou shalt not make unto thee any graven image, or any likeness of any thing that is in heaven above, or that is in the earth beneath, or that is in the water under the earth.

3. Thou shalt not bow down thyself to them, nor serve them.

4. Thou shalt keep thyself from idolatry, and from all that which is like unto it.

5. Thou shalt not take the name of the Lord thy God in vain; for the Lord will not hold him guiltless that taketh his name in vain.

6. Remember the Sabbath day, to keep it holy.

7. Thou shalt not kill.

8. Thou shalt not commit adultery.

9. Thou shalt not bear false witness against thy neighbor.

10. Thou shalt not desire thy neighbor's wife, nor his servant, nor his ox, nor his ass, nor any thing that is his.

11. Thou shalt not desire thy neighbor's house, nor his wife, nor his servant, nor his ox, nor his ass, nor any thing that is his.

12. Thou shalt not desire thy neighbor's house, nor his wife, nor his servant, nor his ox, nor his ass, nor any thing that is his.

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syndication would have continued with or without the Big Ten Network. With the Big Ten Network, every home Big Ten football and men's basketball game will now be produced for a national audience. We believe that fans within the Big Ten's eight-state footprint should be able to see these games at no additional charge on their existing expanded basic cable package.

**MYTH:** Charter, Comcast and other large cable operators are trying to "protect" consumers by refusing to put Big Ten Network on expanded basic.

**FACT:** Charter, Time Warner and Comcast want to put Big Ten Network on a sports tier because of the significant additional revenue a sports tier would generate for them. Comcast, for example, would receive an estimated \$280 per year if a customer is not already a digital subscriber and an estimated \$138 per year if they already pay for digital service, which is required to get a sports tier. DIRECTV, DISH Network, Insight, WOW and RCN, and about 150 other cable companies including 15 here in Wisconsin already added the network to their expanded basic level of service without a simultaneous price increase to consumers.

**MYTH:** If I don't like sports I shouldn't have to pay for the network.

**FACT:** First, it is the cable operators' decision whether to pass any fees they pay to the Big Ten Network on to their customers. Second, every month people pay their cable provider for channels they don't watch. Elderly citizens pay for MTV and VH1. Single people pay for the Disney Channel and ABC Family. Men pay for Lifetime and Oxygen. Women pay for Spike TV. No channel on cable appeals to "most people." However, in 2006, more than half of the top 100 highest-rated programs on cable television were sporting events. Sports programming generates audiences like no other single programming genre. Past history shows that Big Ten football and basketball games are among the highest rated programs on cable TV. For example, the Big Ten Network telecast of the Michigan-Appalachian State game on September 2 was viewed by 11.3 percent of people in Detroit who receive the Big Ten Network. The highest-rated cable programs are typically viewed by 5 percent of the population, and the average program is viewed by significantly less than 1 percent.

**MYTH:** Big Ten Network is the second most expensive network behind ESPN.

**FACT:** The license fee the Big Ten is charging cable operators ranks 30th out of 39 sports networks tracked by Kagan Research, a well-respected industry source. Regional sports networks such as Comcast SportsNet Northwest, Philadelphia, Mid-Atlantic and Chicago cost double the Big Ten Network's fees in the region. Outside the Big Ten's eight-state footprint, Kagan ranks the network's cost of about a dime at 84th out of 159 national networks. Kagan estimates that the average monthly license fee per subscriber for larger operators such as Comcast, Time Warner and Charter - which have subscribers both inside and outside the eight states - is 27 cents.

[illegible]



November 2, 2007

Dear Badger fans,

With the recent announcement that Saturday's game against No. 1 ranked Ohio State would be broadcast by the Big Ten Network, and as we get closer to the start of a men's basketball season in which 20 games will be aired on the Big Ten Network, we have received a number of phone calls, letters and e-mails from Badger fans who are frustrated that those broadcasts are not available on the state's two largest cable systems. We wanted to take a moment to bring you up-to-date on the issues and try to address some of those expressed concerns.

The development of the Big Ten Network, which launched just 65 days ago, has been in the works for nearly three years, and it included input from conference officials, school presidents, athletic directors, faculty representatives and more. In the opinion of those folks, the establishment of the Big Ten Network was the right thing to do to insure the long-time stability of Big Ten athletics. It is important from a recruiting standpoint, a financial standpoint and a marketing standpoint. It's a network that will focus on our schools and our student-athletes and the issues of importance to Big Ten fans.

From the outset, the network was offered to all satellite and cable providers. The only non-negotiable Big Ten Network demand was the inclusion of the network on the expanded basic package in the Big Ten region. Within 30 days of launch, the network was in nearly 30 million homes nationwide -- the most successful launch of its kind in cable television history. It is being carried on Direct TV, Dish Network and approximately 157 cable systems, including 15 in the state of Wisconsin -- and all of those are offering the Big Ten Network on their expanded basic lineup and none of them is charging anything extra to subscribers.

Unfortunately, the two major cable carriers in Wisconsin -- Time Warner and Charter -- have chosen to not carry the Big Ten Network. (It's important to note that our local contacts at both those companies have long been supportive of Badger Athletics. Many of the employees of those companies are Badger fans; many are graduates of UW-Madison or have children, friends and relatives who attend or have attended UW-Madison. They are Badger fans who recognize the importance of carrying the Big Ten Network and who understand the unprecedented demand for television coverage of Badger Athletics in this community. Unfortunately, the decision to not carry the network is being made in places other than Madison and Milwaukee.)

We've heard from cable company spokespersons that the Big Ten Network is too expensive. If small cable companies in Wisconsin like Mt. Horeb Telephone Co. or Tech Com in Richland Center or Vernon Telephone Cooperative in Westby can negotiate a price that is acceptable, why can't Charter and Time Warner do the same?

We've heard from the cable companies that the Big Ten Network does not belong on expanded basic cable, and that their customers shouldn't have to pay for a channel that they may not watch. We simply ask that you review the lineup of 70 or so channels that are currently included on your expanded basic package with Charter and Time Warner, and we think you'll agree that the Big Ten Network would be among the more popular channels in that lineup. And again, if the 15 smaller cable operators, Direct TV and Dish are placing it on expanded basic, why can't Charter and Time Warner?

We've heard cable spokespersons say that you don't need to get the Big Ten Network because all the good games are on ABC, ESPN and other stations already on their expanded basic. We would suggest that Badger fans don't need to be told by the cable companies what games are "the good games." Most Badger fans would agree that the good games are those in which the Badgers play. Saturday's game against Ohio State is a perfect example of that.

We've also heard that there's really no good reason to have the Big Ten Network and that the Big Ten and all of its schools should have kept things the way they were. First of all, many of us have been around here long enough to remember when it was a struggle to get ANY game on television, much less an entire season of broadcasts. Also, don't forget that last year, three of our football games were broadcast on either ESPNU or ESPN360, with significantly limited distribution. And in men's basketball last year, four games were limited to ESPN360, one game was on CSTV and six other Badger games were not televised at all.

Please understand that the role of our athletic department, much like the local folks at Charter and Time Warner -- is limited. We believe strongly that we *are* doing *all* that we can to assist the Big Ten Network staff in their negotiations. But, simply put, until the major cable companies are willing to negotiate, our role in the process will remain extremely limited.

We've been asked often if there is anything you as Badger fans can do to help us work our way through this. Here are a few suggestions to consider:

First, when in discussion about this issue, please share the information in this letter. There are always two sides to a story, and we think the information in this letter can help counter some of the misinformation being put forth in the marketplace by those who don't want the Big Ten Network to succeed.

Second, if you are comfortable in doing so, we ask that you continue to try and contact your local cable provider and let them know that you want the Big Ten Network on your expanded basic lineup, and that even though you may have not made the switch to satellite, that doesn't mean you don't have an interest in the Big Ten Network and you want them to carry it. It really doesn't matter how you make that contact -- phone, e-mail or letter. Let them know that you're a Badger fan; remind them that they are the temporary holders of a municipally regulated cable franchise in your area and are obligated to respond to your community and its programming mandates.

Finally, please understand that most of you do have options. The Big Ten Network is available throughout Wisconsin on Direct TV and Dish Network. Switching from cable to satellite is not something that everyone wants to do, but it is available and it is an option to most households in Wisconsin. Increasingly, that is an option that is being acted upon. In the Madison area, for instance, we're told that nearly 30 percent now have satellite and that number continues to trend upward.

In summary, we feel strongly that a successful Big Ten Network is good for Wisconsin Athletics. It provides unprecedented marketing opportunities; a distinct recruiting advantage and a steady, guaranteed stream of incremental revenue over a 20-year period that will help Wisconsin remain a nationally competitive athletic department. It's a network about your student-athletes, your teams and your school.

We want to thank all of you who have contacted us in recent weeks. We hear your voices. We share your concerns. Please know that we will continue our efforts to bring broad distribution on the Big Ten Network to Badger fans in every corner of this great state of Wisconsin.

We thank you for your patience and for your continued support of Badger Athletics.

On Wisconsin!

John D. Wiley  
Chancellor


Barry Alvarez  
Director of Athletics

Walter Dickey  
UW Athletic Board Chair





November 16, 2007

TO: Barry Alvarez  
FROM: John D. Wiley   
Chancellor  
RE: Memorandum of Agreement on Sharing of Big Ten Network Revenue

The Big Ten Conference media revenues are increasing by a substantial factor as a result of our agreements with Fox and formation of the Big Ten Network (BTN). The distribution to Wisconsin from the guaranteed minimum royalties from the Fox agreement will be \$6.125 million annually beginning in 2007-08.

No other athletic conference is in a position to realize this magnitude of media revenue. Consequently, the Big Ten is in a unique situation that has enormous positive potential, but we also don't want to encourage an athletics "arms race" through rapid, unilateral escalation of salaries and new facilities. Therefore, it will be important for Athletics to be able to show how the enhanced revenues have been used to improve academic performance of student-athletes and enhance facilities in non-revenue sports.

Beyond the above considerations, it is impossible to separate athletic success and revenue generation from the university as a whole: Athletics trades on and benefits from the overall institutional reputation and success, just as it contributes to those things. A large part of the market value of the BTN is the extraordinary number and distribution of our alumni nationwide. For these reasons, it will be important for the enhanced revenues to benefit both Athletics and the fans/future alumni directly.

For all these reasons, it is important to set out principles for the distribution of media revenues, an agreed methodology for implementation, and provisions for periodic review, especially if and when agreed thresholds are reached.

As principles, I propose the following:

1. First call on BTN revenues should be to fund one FTE position for a campus liaison to be our main point of contact with the Athletic Department and the BTN operations, and for production costs associated with BTN programming.

Office of the Chancellor

Bascom Hall University of Wisconsin-Madison 500 Lincoln Drive Madison, Wisconsin 53706  
608/262-9946 Fax: 608/262-8333 TTY: 608/263-2473

2. The balance should be divided appropriately between the Athletic Department and campus. In setting the division ratio, the following considerations should apply:
  - a. The campus portion should be used to support major, campus-wide priorities that maximize support and bring tangible benefits to broad constituencies. Examples include need-based student financial aid and the library system.
  - b. The Athletic Department portion should be used to support the department's strategic plan, including, specifically, student academic success, competitiveness in all sports, and timely completion of scheduled facilities upgrades. Special care should be taken, however, to make sure there is no fueling of an arms race by rapid escalation of salaries or by dramatically increased or unbalanced spending on the revenue sports. In addition, the Athletic Department should use this opportunity to secure its future fiscal health by (where possible) allowing existing endowments to grow in the UW Foundation through lower rates of drawdown.
  - c. The revenue should NOT be seen as an opportunity to increase the rate of spending simply because the funds appear to be there to do so. As large as the revenue increase is, it is still not nearly large enough to offset donor funding or other revenues.
3. It is in the interest of both campus and the department that the enhanced media revenues enable us to satisfy the principles outlined above for the benefit of both parties. Therefore, nothing in any signed agreement should be construed as being inappropriate for renegotiation at any time.

With these principles in mind, I propose the following implementation, which will satisfy all stated principles:

1. First, take \$250,000 to cover initial production costs and salary and benefits for a campus liaison to BTN, which will be an appointment in the campus office of University Communications, reporting through the director to the Chancellor's Office. The Athletic Department's liaison will serve as the primary contact to BTN. The campus liaison will work directly with the Athletic Department liaison to deliver support and services to BTN. If this amount proves inadequate or excessive, it can be adjusted in future years. There are other ways we could propose meeting these costs, but this is the way nearly all other Big Ten schools are handling this arrangement.
  2. Distribute 70 percent of the remainder to Athletics and 30 percent to campus.
  3. From the campus share of revenues, we will fund need-based scholarships and the General Library System.
-

4. Inflation of both athletic and campus expenses will not be indexed in advance, but must be handled within the growth of the media revenue stream.
  5. Any Channel revenues above the guaranteed gross minimum amounts will be divided between Athletics and campus, with two-thirds going to Athletics and one-third to Campus.
  6. I propose that the first-year signing bonus of approximately \$3 million should be split two-thirds for Athletics and one-third for campus, following the principles for use described above.
  7. Trademark Licensing revenues above the cost of administering the program will continue to be shared equally between campus and the Athletic Department.
-

Big Ten Network Distribution  
November 16, 2007

		FY08 Sharing-BTN
Guaranteed Revenue from BTN		6,125,000
Less: Channnel Related		250,000
Net Revenue Balance to be Distributed		5,875,000
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Percentage of Net BTN Revenue to Campus	30%	1,762,500
Distributed to Student Financial Services (75%)		1,321,875
Distributed to Library System (25%)		440,625
Balance of BTN Revenue Available to Campus (after distributions)		0
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Percentage of Net Revenue to Athletics	70%	4,112,500
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ILLINOIS INDIANA IOWA MICHIGAN MICHIGAN STATE MINNESOTA NORTHWESTERN OHIO STATE PENN STATE PURDUE WISCONSIN

1500 WEST HIGGINS ROAD  
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FACSIMILE 847-696-1150

## MEMORANDUM

**DATE:** April 12, 2006  
**TO:** Council of Presidents/Chancellors  
**FROM:** Jim Delany  
**SUBJECT:** The Big Ten Channel – Assignment of Rights

I am enclosing duplicate execution copies of the Assignment of Rights to be signed by each member institution as required by the Agreement that the Big Ten executed with Fox to form and operate The Big Ten Channel. I am also enclosing an Executive Summary of the Assignment of Rights.

As I stated in my March 31 memorandum to you on this subject, the Agreement contains two conditions to make it binding on the Big Ten and Fox:

1. The COP/C must approve the Agreement by April 15; and
2. The Conference must receive the Assignment of Rights from each member institution by May 15.

The enclosed documents relate to the second condition above. As you will note, I have already signed both enclosed copies of the Assignment of Rights. Please (a) sign both copies of the Assignment of Rights where indicated and (b) return one executed document to my office in the envelope provided as soon as possible, hopefully by May 1, 2006, but in no event later than May 15, in order to satisfy the condition in the Agreement with Fox. The second executed document is for your files.

We are in the process of receiving this week the signed Board of Directors resolution from each member of the COP/C, which is the first condition above, as the deadline for approval is this Saturday, April 15. If you have not signed and forwarded that resolution to me, I urge you to do so immediately so that I will receive it this week by the April 15 deadline.

Enclosures

## EXECUTIVE SUMMARY OF ASSIGNMENT OF RIGHTS

### Rights Granted to Conference by Member Institution

- **Games:** Exclusive rights to telecast or otherwise distribute all home games in all sports
  - Rights to hockey games are subject to existing agreements between Member Institutions and CCHA and WCHA. These rights will belong to the Channel if the current hockey relationships end. Under the *status quo*, the Channel would still like to telecast hockey games if they become available.
- **Ancillary Programming:** Rights to all pre- and post-game shows, weekly highlight shows, coaches' shows and season preview and review shows (subject to Member Institution retained rights discussed below)
  - The Channel has exclusive rights to distribution outside the Member Institution's home state and inside the Big Ten region
  - The Channel has non-exclusive rights to distribution inside the Member Institution's home state (subject to Member Institution's exclusive first-run rights)
  - The Channel has non-exclusive rights to distribution outside the Big Ten region
- **Archive Rights:** Access to production feeds and usage rights to all past game and highlight footage owned or controlled by the Member Institution

### Rights Retained by Member Institution

- **Games:** All games, other than football and men's basketball games, not selected for distribution by the Channel or by ABC/ESPN will be sublicensed back to the Member Institution
  - Member Institution may distribute such games by local broadcast station, institutional programming service (on-campus television) or the Member Institution's official website
  - Any other distribution (e.g., national or regional cable distribution) subject to prior approval of the Channel in light of the Channel's distribution strategy to maximize the value of the Channel
  - Selection procedures TBD
- **Ancillary Programming:** Member Institution may produce or license for production coaches' shows and other school-specific programming (e.g., weekly highlight shows and season-in-review shows)

- Exclusive first run distribution within the Member Institution's home state (including minimal spill-over into other markets within the broadcast/telecast territory of the local broadcast station/regional network) and thereafter non-exclusive replay rights within Member Institution's home state
- Non-exclusive outside the Big Ten region

• **DVDs:**

Non-exclusive right to produce and distribute, by DVD or similar home video product, game highlights and season-in-review shows

- Royalty-free right to use Channel game and highlight footage
- Retain all revenues from sale of DVD or home videos
- Consult with Channel prior to entering into agreement for third party production of DVD or home videos

• **Radio Rights:**

All radio rights by any and all means (e.g., traditional or internet)

**Other Provisions**

- **Effective Date:** July 1, 2007
- **Term:** 20 years, subject to one 5-year extension
- **Transition:** Subject to CSTV rights that are scheduled to expire on June 30, 2008 (subject to FNFR rights)
- **Away Games:** Member Institution will use commercially reasonable efforts (at no cost to Member Institution) to obtain access to feed of each football and men's and women's basketball non-conference away game
- **Big Ten/ACC Challenge:** Member Institution agrees to participate in the Big Ten/ACC Challenge each year
- **Non-sports Programming:** The Channel will telecast 60 hours per Member Institution per year of non-sports programming produced by the Member Institution (academic, charitable, cheerleading, etc.)
- **Contracting Authority:** The Conference is the authorized party to negotiate and execute telecast and distribution agreements
- **Marks/Logos:** The Channel and ABC/ESPN will have the reasonable use of a Member Institution's marks and logos to promote the games and ancillary programming
- **Copyright:** The Conference will own and control the copyright to all games and ancillary programming

**AMENDED AND RESTATED  
EXTENSION AND ASSIGNMENT AGREEMENT**

**THIS AMENDED AND RESTATED EXTENSION AND ASSIGNMENT AGREEMENT** (this "Assignment") is made as of the 1<sup>st</sup> day of May, 2006, between **THE BIG TEN CONFERENCE, INC.** (the "Conference") and **UNIVERSITY OF WISCONSIN**, one of the Conference's member institutions (the "Member").

WHEREAS, each of the eleven member institutions of the Conference has previously assigned to the Conference, by Extension and Assignment dated September 1, 1997 (the "1997 Assignment"), all of the right, title and interest to telecast each such member institution's football, men's basketball, women's basketball and volleyball games through May 1, 2010; and

WHEREAS, the Conference and each of its member institutions now desire hereby to amend and restate the 1997 Assignment in order for the member institutions to assign to the Conference certain rights to telecast and distribute games in all varsity sports and related ancillary programming as well as to agree to certain other matters relating to such telecasts and programming, all as more fully set forth below;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth below, the parties hereto hereby agree as follows:

1. The Member acknowledges and agrees that the Conference has the sole authority to negotiate and execute, on behalf of the Conference and its member institutions (including without limitation the Member), agreements relating generally or specifically to the telecast and distribution rights to the Games (as defined below), Ancillary Programming (as defined below), college bowl association agreements and Conference tournaments and championship events.

2. The Member hereby assigns to the Conference for the term of this Assignment all of the right, title and interest that the Member, directly or indirectly, has or may hereafter acquire to telecast or distribute, live or delayed, throughout the universe, in any and all markets, in any and all languages and via any and all forms of media and methods of distribution and distribution technology, now existing or hereafter developed (including without limitation, over-the-air television, cable television, IPTV, satellite television, closed circuit television, broadband, wireless, VOD/SVOD, HDTV, interactive, online/Internet, mobile, pay-per-view, video downloads (such as iPods), DVD or other similar home video products, or video games but excluding radio and forms of radio distribution) (collectively, "Telecast or Distribute") the following:

(a) Exclusive rights to Telecast or Distribute all of the Member's varsity athletic games, matches, contests or events that relate to the Member's such games, matches or contests (such as Spring football scrimmages, "Midnight Madness" basketball practices or other public events relating to a varsity athletic team) (collectively, the "Games") that are played or occur at the Member's home venue (which will include certain neutral site Games both in and out of the Big Ten Region (as defined below)) during the term of this Assignment. Notwithstanding the foregoing, the rights relating to any hockey Games are subject to existing

agreements (and applicable extensions or renewals) between the Member and the Central Collegiate Hockey Association or the Western Collegiate Hockey Association, as applicable;

(b) Exclusive rights to Telecast or Distribute all "shoulder programming," including without limitation all preview shows, pre- and post-Game shows, intermission shows, weekly highlight shows, coaches' shows and review shows, produced by the Conference, the Member or any licensee of the Conference or the Member during the term of this Assignment (collectively, "Ancillary Programming"); provided, however, such rights to Telecast or Distribute Ancillary Programming produced by the Member or a licensee of the Member shall be exclusive to the Conference for distribution outside of the Member's home state and otherwise within the Big Ten Region (which includes, for purposes of this Assignment, the states of Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, Pennsylvania and Wisconsin and, if the Conference expands during the term of this Assignment to include a new member institution(s) that is(are) located in a state(s) other than one of the states listed above, then such additional state(s)) and shall be non-exclusive to the Conference for distribution within the Member's home state (subject to exclusive first-run distribution rights granted by the Member for Ancillary Programming within the Member's home state) and outside of the Big Ten Region; and

(c) Access to production feeds and usage rights to Game and Game highlight footage owned or controlled by the Member relating to Games that occurred prior to the Effective Date (as defined below).

The Conference may license to third parties the above rights to Telecast and Distribute. In addition, the above rights shall include the exclusive right to sell all advertising inventory and retain all revenues in connection therewith relating to the Games and the Ancillary Programming (with the exception of any Declined Game (as defined below) and any Ancillary Programming produced by or on behalf of the Member, it being the understanding that the Member shall have the right to sell advertising inventory and retain all revenues for Declined Games and Ancillary Programming produced by or on behalf of, and distributed by, the Member and that the Conference shall have the right to sell advertising inventory and retain all revenues for replays of such Declined Games and Ancillary Programming that the Conference elects to Telecast or Distribute.)

3. Notwithstanding any provision of paragraph 1 or 2 above to the contrary, the Conference and the Member acknowledge and agree that the Member shall retain the following rights:

(a) Any Game(s) (other than a football or men's basketball Game) not selected for production and distribution under the agreements entered into by the Conference to Telecast or Distribute the Games (a "Declined Game") shall be available via sublicense to the Member for the Member's production and distribution within the Member's home television market by a local broadcast station licensee or institutional programming service (*i.e.*, on-campus television station) or via the Member's official institutional website, subject to the applicable terms and conditions as may exist in such agreements; provided, however, that any other distribution by the Member or licensee of the Member (*e.g.*, national or regional cable distribution) shall be subject to the approval of the Conference, in its sole discretion;

(b) The Member may produce, or license for production, Ancillary Programming consisting of its coaches' shows and other Member-specific sports programming and distribute or license for distribution such Ancillary Programming (including exclusive first-run distribution) within the Member's home state (including minimal spill-over into other markets within the broadcast/telecast territory of the local broadcast station/regional network) and may distribute or license for distribution such Ancillary Programming on a non-exclusive basis outside of the Big Ten Region; and

(c) The Member shall have the non-exclusive right to produce and commercially distribute or license the production and commercial distribution of, via DVD or similar home video product, Game highlights and season-in-review shows of the teams of the Member and shall be entitled to retain all revenues with respect thereto. The Member shall have the royalty-free right to use Game and Game highlight footage owned or controlled by the Conference in connection with such DVD or home video product produced by the Member. The Member agrees to consult with the Conference or the Conference's licensee with respect to production of such DVD or home video product prior to entering into any agreement with a third party for such production or the commencement of any such production by the Member itself.

4. The Member shall use commercially reasonable efforts to obtain the right, on behalf of the Conference, to access, for purposes of allowing the Conference, or its designee, to Telecast or Distribute, a feed or split feed of each non-Conference football, men's basketball and women's basketball Game played at a facility at which the Member is designated as the visiting team. If such rights are acquired by the Member, such rights are hereby automatically assigned to the Conference, which shall have the right to license such rights to a third party. In the event there is any financial cost to acquire the above-referenced rights to any non-Conference football or men's basketball games, the Member shall notify the Conference and the Conference shall have the option to assume such cost for such rights; provided, however, that the Member shall not be required to assume any such cost on behalf of the Conference.

5. The Conference shall have the royalty-free right to the reasonable use of, and the right to authorize third parties with whom the Conference enters into agreements to Telecast or Distribute the Games and Ancillary Programming to the reasonable use of, the Member's logos and marks to promote the Games and the Ancillary Programming in connection with the Conference's rights to Telecast or Distribute as set forth in this Assignment.

6. If the Big Ten/ACC Challenge series is played in any year during the term of this Assignment, the Member agrees to cause its men's basketball team to participate in such series and shall not schedule non-conference men's basketball games in such a manner as to preclude the Member's participation therein.

7. Subject to paragraph 10 below, this Assignment shall be binding upon the Conference and the Member immediately upon the execution hereof by the respective parties and shall amend, restate and supersede the 1997 Assignment between the Member and the Conference. This Assignment shall be effective as of July 1, 2007 (the "Effective Date"), and shall terminate on June 30, 2027, unless otherwise terminated or extended by mutual agreement of the Conference and its member institutions; provided, however, that in the event the rights

agreement for the proposed Big Ten Channel is extended to June 30, 2032, in accordance with its terms, then this Assignment shall terminate on June 30, 2032.

8. The Conference agrees to negotiate and enter into agreements to Telecast or Distribute the Games and Ancillary Programming. The Conference further agrees to distribute to the Member (and the other member institutions) revenues derived from such agreements in excess of related expenses and assessments (including without limitation any cross-over payments) in accordance with the Conference's policies as determined from time to time by the Board of Directors of the Conference.

9. The Member assigns to the Conference any and all rights of the Member to own, control or otherwise use the copyright to the Games (including without limitation all Declined Games) and Ancillary Programming; provided, however, the Member shall have all such necessary usage rights to produce, telecast and distribute the Games and Ancillary Programming as permitted under paragraph 3 above.

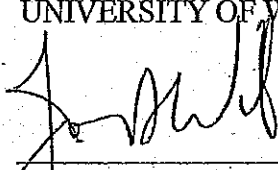
10. Notwithstanding any provisions of paragraph 7 above to the contrary, in the event that less than all of the current member institutions of the Conference execute an amended and restated extension and assignment in the same form as this Assignment, this Assignment will be voidable at the option of the Member, which option may be exercised by written notice to the Conference within sixty (60) days of the Member's learning that one or more member institutions of the Conference are unwilling to execute such an amended and restated extension and assignment in this form. In the event that the Member exercises its right to void this Assignment pursuant to this paragraph 10, then the 1997 Assignment between the Member and the Conference shall automatically be reinstituted and remain in full force and effect pursuant to its terms.

IN WITNESS WHEREOF, the parties have caused this AMENDED AND RESTATED EXTENSION AND ASSIGNMENT to be executed by their duly authorized representatives as of the date first written above.

THE BIG TEN CONFERENCE, INC.

  
By: James E. Delany  
Its: Commissioner

UNIVERSITY OF WISCONSIN

  
By: John D. Wiley  
Its: Chancellor







**STEVEN M. BORNSTEIN**  
Chief Executive Officer, NFL Network

Considered one of the most influential sports and entertainment television executives of the last quarter century, Steve Bornstein has his sights set on paving a new path for the cable and satellite industries in the next quarter century.

The 22-year veteran of ESPN and ABC, Bornstein joined the National Football League in January 2003, after serving as a league consultant for four months.

Bornstein was appointed the President and CEO of NFL Network by NFL Commissioner Paul Tagliabue. The network will be the first television programming service fully dedicated to the NFL and the sport of football. NFL Network begins airing in Fall 2003 and runs seven days a week, 24 hours a day on a year-round basis.

In addition, Bornstein's duties include serving as the NFL's Executive Vice President of Media. Among his first duties in that role, Bornstein was pivotal in securing the December agreement to extend the NFL Sunday Ticket exclusively on satellite provider DirecTV through 2007.

Bornstein's expertise and experience will be relied upon to lead all aspects of the new cable and satellite network, including staffing, programming, distribution, advertising, sales, marketing and overall positioning and direction of the network. Additionally, Bornstein's vast contacts throughout the television industry will help strengthen the NFL's relationships with its current TV partners as the evolving industry plans for the future.

Prior to joining the NFL, Bornstein was the president of ABC Television, a post he held until his resignation in May 2002. In 1999, Disney chief Michael Eisner tabbed Bornstein to serve as chairman of the Walt Disney Internet Group, which he did from 1999-2001. Before that, he was responsible for all of ABC cable and broadcast assets.

But, Bornstein built his reputation on the company he helped build. When Bornstein joined a four-month old company in 1980 in its programming department, there was only one network: ESPN. In the next 10 years, he and the ESPN team shaped it into an American media success story. On September 10, 1990, Bornstein became the network's youngest president at age 38. Under his leadership, ESPN established itself as the most recognizable name in sports programming worldwide. In March 1993, he became a Corporate Vice President of the then-named Capital Cities/ABC, Inc. In April, 1996, Bornstein was named President of ABC Sports.

Named ESPN, Inc.'s first-ever Chairman on November 19, 1998, Bornstein spearheaded the company through its most active growth period while serving as President and CEO the previous eight years. As Chairman and CEO, Bornstein focused on ESPN's global business and growth opportunities for the company.



Bornstein's vision and creativity led to ESPN creating new networks, brand extensions, global expansion and strategic acquisitions. Under Bornstein's direction, ESPN aggressively sought innovative ways to serve sports fans through all forms of media and technology.

His marketing prowess, programming acumen and innovation have led to success after success. From *ESPN2*, to *ESPN News*, to acquiring *ESPN Classic*, to *ESPN International Network*, *ESPN The Magazine*, *ESPN Radio*, the *ESPY's* and creating the *X-Games* and *ESPN Sports Zone* restaurants. Bornstein's fingerprints are on all of it, including the cutting edge programming that still thrives today: *SportsCenter*, *NFL PrimeTime*, *Baseball Tonight* and the *Outside the Lines* series.

Bornstein led a team that amassed 59 Emmys and 57 Cable Ace Awards. To this day ESPN maintains Bornstein's original philosophy of providing the broadest and deepest coverage of sports with award-winning, innovative production techniques.

While at ABC, Bornstein established *ABC Sports* as the preeminent network of college football. Under his leadership, ABC Sports created the College Football Championship Series (BCS), the first-ever national college football championship and extended contracts with the Big Ten, PAC-10 and Atlantic Coast Conferences that still are in effect today.

Prior to joining ESPN, Bornstein spent three years at WOSU-TV in Columbus, Ohio, serving as Executive Producer the last two years. Under his direction, WOSU won three local Emmy Awards. Bornstein was also involved with Qube, Warner-Amex's two-way cable system which began in Columbus, paving his path to ESPN; he produced the early pay-per-view project of Ohio State football for two years.

Born on April 20, 1952, Bornstein is a native of Fairlawn, N.J. and a 1974 University of Wisconsin graduate with a Bachelor of Science degree in film. As an undergraduate, he worked at WHA-TV and WKOW-TV in Madison. After graduation, he worked for two years at WMVS-TV in Milwaukee as a remote crew chief. He also freelanced as a cameraman for Marquette Warriors and Milwaukee Bucks basketball games and Milwaukee Brewers baseball games.

Activities in outside organizations include Bornstein's charity work for the V Foundation, an organization dedicated to saving lives by finding a cure for cancer. Honoring the late Jimmy Valvano, the college basketball coach and former ESPN analyst, Bornstein is proud to serve as a member of the board. In addition, Bornstein is a trustee for Hampton University in Richmond, Virginia and sits on the board of directors for the American Museum of the Moving Image, which is dedicated to educating the public about the art, history, technique and technology of film, television and digital media and to examining their impact on culture and society.

Bornstein is based out of the NFL headquarters in New York City.  
(10/05)

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**Jason Wied**  
Packers, Vice President of Administration/Corporate Counsel

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Jason Wied, the Packers' corporate counsel since 2001, in 2007 begins his first year as the organization's vice president of administration/corporate counsel.

Named to the position April 3, 2007, Wied's expanded responsibilities include representing the Packers at NFL meetings, as well as the day-to-day management of the team's administrative operations, including retail operations, Atrium operations, community outreach, information technology, public relations, facility operations and security. He'll continue to oversee the team's corporate legal matters and work closely with the Board of Directors and Executive Committee.

"Jason's contributions to the organization have grown each year and he will continue to play a significant role in our club's leadership structure," said Packers Chairman Bob Harlan. "His previous work on the organization's legal matters and administrative responsibilities has been outstanding. Also, he's a Green Bay native and therefore has a great feel for the unique nature of the franchise. We look forward to his continued important counsel on key issues for the Packers."

Wied (pronounced WEED) joined the Packers Sept. 18, 2000, as staff counsel after practicing civil litigation and business law for two years (1998-2000) at the law firm of Liebmann, Conway, Olejniczak & Jerry, S.C., in Green Bay. He was promoted to corporate counsel a year later.

A Green Bay native, Wied, 35, graduated from Green Bay Premontre High School (1990), where he played football and hockey. He then graduated from the University of Wisconsin-Madison (1995, B.A. psychology) and from Marquette University Law School (1998). His early work with the team included coordination of the construction and lease negotiations involving the redevelopment of Lambeau Field as well as the team's successful application for the NFL's G-3 stadium funding. In addition to managing the team's corporate legal matters, he also guided strategic media and sponsorship agreements associated with the redeveloped stadium.

Wied continues to be involved in Wisconsin's legal community as he serves on the State of Wisconsin's Agent Advisory Committee.

Active in the community, Wied is a member of the board of directors of the Heritage Hill Foundation and a member of the executive committee of the Green Bay Chamber of Commerce. He is a member of the Green Bay Gamblers (USHL) advisory board and is a past member of the board of directors of the Green Bay Marathon.

Wied and his wife, Melissa, live in Green Bay with their three children: two sons, Jack, 10, and Henry, 6, and a daughter, Rae, 4. Away from work, he coaches youth hockey and baseball, and also enjoys reading, playing golf, hockey and racquetball, as well as spending time with his family.



## Kathy Lazzaro Named Eighth Member Of Packers FAN Hall Of Fame

*posted 12/16/2005*

Kathy Lazzaro of Milwaukee was named the eighth member of the Green Bay Packers FAN Hall of Fame Friday.

Lazzaro was nominated by Joseph M. Fasi II of Brookfield, Wis., who met her earlier this year when he joined her for a drive to Green Bay for the home opener, Sept. 18, vs. Cleveland.

In his nomination letter, Fasi said, "I have in the past read about the ultimate fan and thought I knew some. However, when I met Kathy Lazzaro this year, I finally found the living definition of the ULTIMATE FAN.

"Kathy Lazzaro is a wonderful, soft-spoken woman about 60 years old. She has been a widow for the last 5 years. She NEVER misses a home game, driving up to Green Bay with her son Joseph. My daughter and I shared a ride to Green Bay with Kathy and her son to the Browns game. As we drove to Green Bay, I found out that her home is a Packers shrine set up in a room with green and gold and icons to honor her beloved Packers past and present. She never leaves the TV during a game.

"She did not miss a game when her husband, Joseph, died 5 years ago. She knew that he would have wanted her at the games, since that was her second lover after her husband. There are many fans dressed in team colors, who attend the games or have a room decorated for the Pack. What sets Kathy apart and makes her an exceptional candidate for the Green Bay Packers Fan Hall of Fame is her spirit.

"A fan is one who always believes in the team and sticks with them no matter whether they are winning or losing. Kathy is that fan. She loves HER Packers and will not leave them at any time, in any weather, despite the record or score on the board. She will not leave the game early and will not speak ill of her team. That goes beyond the colors, clothing, jewelry, photos and pennants. That is the spirit and living definition of a fan. I was in awe of what I saw and heard when I met her and I encourage you to meet her as well. She is for real. These pages cannot adequately capture or contain the spirit and essence of this SUPER FAN. One meeting would convince you as it did for me."

Lazzaro will receive four club seats to the Jan. 1 Packers-Seahawks game, at which she will be recognized on the Lambeau Field TundraVision video boards, a \$500 Packers Pro Shop gift certificate and a road trip for two to a 2006 Packers away game, including game ticket, air fare and hotel accommodation. She also will be introduced during the Packers Hall of Fame Induction Banquet next July and have her name permanently displayed in a place of honor in the Packers Hall of Fame.

Balloting for the FAN Hall of Fame, international in scope, yielded thousands of votes from throughout the United States and countries around the world.

This year's finalists, in addition to Lazzaro, included Rudy Carmenaty, Massapequa Park, N.Y.; Caroline B. Comella, Appleton, Wis.; Bob Esch, Caledonia, Minn.; Jeff Kahlow, Fond du Lac, Wis.; Patrick Finkler, Reading, Mass.; Thomas P. Hay, Sun Prairie, Wis.; Frank Parks, Newfield, N.J.; Ray Schrader, Wabeno, Wis. and April Skony, Jupiter, Fla.

The Green Bay Packers, the first professional football team to have its own hall of fame, enhanced that distinction in 1998 by establishing a Packers FAN Hall of Fame for the purpose of annually honoring a devout and longtime Packers fan.

The seven prior inductees include Mel Knoke, Appleton, Wis.; Louis Gardipee, Black River Falls, Wis.; Ed Jablonski, Wausau, Wis.; Paul Mazzoleni, Green Bay; Wanda Boggs, Brookfield, Wis.; Sister Isaac Jogues Rousseau, Milwaukee; and Dorothy Hanke, Milwaukee.

FAN Hall of Fame sponsors are ShopKo, Stein Gardens and Gifts, Best Buy and Time Warner Cable.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for transparency and accountability, particularly in financial matters. The text suggests that organizations should implement robust systems to track every detail, from procurement to sales, to ensure that all data is reliable and accessible.

2. The second part of the document addresses the challenges of data management in a rapidly changing environment. It highlights the need for continuous monitoring and updates to data systems to reflect the latest information. The text also discusses the importance of data security and the potential risks associated with data breaches, suggesting that organizations should invest in secure storage and access protocols.

3. The third part of the document focuses on the integration of data across different departments and systems. It argues that siloed data can lead to inefficiencies and miscommunication, and that a unified data platform is necessary for effective decision-making. The text provides examples of how data integration can improve workflow and reduce errors.

4. The fourth part of the document discusses the role of data in strategic planning and decision-making. It suggests that data-driven insights can help organizations identify trends, anticipate market changes, and make informed decisions. The text also touches on the importance of data literacy for all employees, as it is a key skill for navigating the data-driven world.

5. The fifth part of the document addresses the ethical considerations of data use. It emphasizes that while data is a powerful tool, it must be used responsibly and with respect for individual privacy. The text discusses the importance of obtaining consent and ensuring that data is used for its intended purpose, without being misused or sold to third parties.

6. The sixth part of the document discusses the future of data management and the emerging technologies that will shape the landscape. It mentions artificial intelligence, machine learning, and cloud computing as key drivers of innovation in data management. The text suggests that organizations should stay ahead of the curve by adopting these technologies and exploring new ways to leverage data.

7. The seventh part of the document discusses the importance of data governance and the role of a data governance committee. It suggests that a formalized approach to data management is necessary to ensure consistency and compliance with regulations. The text also discusses the importance of regular audits and reviews to ensure that data management practices are up-to-date and effective.

8. The eighth part of the document discusses the importance of data in customer relationship management (CRM). It suggests that data can be used to better understand customer needs and preferences, leading to improved service and increased loyalty. The text also discusses the importance of data in marketing and sales efforts.

9. The ninth part of the document discusses the importance of data in human resources management. It suggests that data can be used to identify talent, track performance, and improve employee engagement. The text also discusses the importance of data in recruitment and retention efforts.

10. The tenth part of the document discusses the importance of data in financial management. It suggests that data can be used to track expenses, manage budgets, and make informed financial decisions. The text also discusses the importance of data in risk management and compliance.

11. The eleventh part of the document discusses the importance of data in project management. It suggests that data can be used to track progress, manage resources, and ensure that projects are completed on time and within budget. The text also discusses the importance of data in communication and collaboration.

12. The twelfth part of the document discusses the importance of data in research and development. It suggests that data can be used to identify new opportunities, test hypotheses, and bring new products to market. The text also discusses the importance of data in innovation and creativity.

13. The thirteenth part of the document discusses the importance of data in sustainability and social responsibility. It suggests that data can be used to track environmental impact, social performance, and governance. The text also discusses the importance of data in reporting and transparency.

14. The fourteenth part of the document discusses the importance of data in the future of work. It suggests that data can be used to predict trends, manage change, and prepare for the future. The text also discusses the importance of data in lifelong learning and skill development.

15. The fifteenth part of the document discusses the importance of data in the future of society. It suggests that data can be used to improve lives, solve problems, and create a better world. The text also discusses the importance of data in global cooperation and peace.





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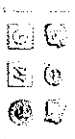
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Senior Vice President and Chief Programming Officer



BASIC CHANNELS		MTV2		MHTC Channel		103 ABC Family	
AEC (WKOW)	7	NFL Network	28	4	Mt Horeb Schools*	107 Nickelodeon	107 Nickelodeon
CBS (WISC)	3	Nick GAS (Games & Sports)	10	5	NBC (WMTV)	108 Nick Toons	108 Nick Toons
C-SPAN	16	Nick Toons	108	6	OVC	109 Noggin	109 Noggin
C-SPAN 2	17	Nickelodeon	107	7	ABC (WKOW)	110 Nick GAS (Games & Sports)	110 Nick GAS (Games & Sports)
D-TV**	10	Noggin	109	8	Fox (WMSN)	111 Cartoon Network	111 Cartoon Network
Fox (WMSN)	3	Outdoor Channel	37	9	CBS (WISC)	112 TV Land	112 TV Land
HSN (Home Shopping Network)	16	Oxygen	59	10	D-TV**	121 CNN	121 CNN
Madison CW (WBUV)	15	Sci-Fi Channel	48	11	PBS (WHA)	122 CNN - Headline News	122 CNN - Headline News
MHTC Channel	2	Soap Network	64	12	Mt Horeb Local*	123 Fox News Channel	123 Fox News Channel
Mt Horeb Local*	12	Speed Channel	35	13	WGN	124 CNBC	124 CNBC
Mt Horeb Schools*	4	Spike TV	43	14	My Madison TV	125 MSNBC	125 MSNBC
My Madison TV	14	Style	98	15	Madison CW (WBUV)	127 Bloomberg TV	127 Bloomberg TV
NBC (WMTV)	5	TBN (Trinity Broadcasting)	159	16	C-SPAN	128 Weather Channel	128 Weather Channel
PBS (WHA)	11	TBS	44	17	C-SPAN 2	150 BET	150 BET
QVC	6	TCM (Turner Classic Movies)	55	18	HSN (Home Shopping Network)	151 MTV	151 MTV
WGN	13	The History Channel	87	21	ESPN	152 MTV2	152 MTV2
<b>ENHANCED CHANNELS</b>							
A&E	46	The Military Channel	88	22	ESPN News	153 MTV Jams	153 MTV Jams
ABC Family	103	The Science Channel	89	23	ESPN Classic	155 MTV Tres	155 MTV Tres
AMC (American Movie Classics)	54	The Travel Channel	59	24	ESPN 2	164 VH-1	164 VH-1
American Life TV	63	TLC (The Learning Channel)	38	27	Fox Sports Net Wisconsin	165 VH-1 Classic	165 VH-1 Classic
Animal Planet	92	TNT	45	28	NFL Network	166 VH-1 Soul	166 VH-1 Soul
BBC America	68	Toon Disney	132	29	Big Ten Network	167 KMT Pure	167 KMT Pure
BET	150	TV Land	112	34	Golf Channel	172 CMT	172 CMT
Bloomberg TV	127	USA	47	35	Speed Channel	173 Great American Country	173 Great American Country
Big Ten Network		Versus	36	36	Versus	198 EW/TN (Eternal Word)	198 EW/TN (Eternal Word)
Bravo		Vid. 4	124	37	Outdoor Channel	199 TBN (Trinity Broadcasting)	199 TBN (Trinity Broadcasting)
Cartoon Network						301 HBO 2	301 HBO 2
CMT						302 HBO 2	302 HBO 2
CMT Pure						303 HBO Family	303 HBO Family
CNBC						304 HBO Signature	304 HBO Signature
CNN						321 Cinemax	321 Cinemax
CNN - Headline News						322 Cinemax - More Max	322 Cinemax - More Max
Comedy Central						351 Showtime	351 Showtime
Court TV						352 Showtime Extreme	352 Showtime Extreme
Discovery						353 Showtime Showcase	353 Showtime Showcase
Discovery Health						354 Showtime Too	354 Showtime Too
Discovery Home						355 Showtime Beyond	355 Showtime Beyond
Discovery Kids						361 TMC-The Movie Channel	361 TMC-The Movie Channel
Discovery Times						362 TMC-Xtra	362 TMC-Xtra
Disney Channel						371 Flix	371 Flix
EL						372 Sundance	372 Sundance
ESPN						401 Starz!	401 Starz!
ESPN 2						402 Starz! Edge	402 Starz! Edge
ESPN Classic						403 Starz! Cinema	403 Starz! Cinema
ESPN News						404 Starz! Comedy	404 Starz! Comedy
EW/TN (Eternal Word)						406 Starz! In Black	406 Starz! In Black
Food Network						406 Starz! Kids & Family	406 Starz! Kids & Family
Fox Movie Channel						421 Encore	421 Encore
Fox News Channel						422 Encore - Action	422 Encore - Action
Fox Sports Net Wisconsin						423 Encore - Love Stories	423 Encore - Love Stories
FX						424 Encore - Mystery	424 Encore - Mystery
G4						425 Encore - Drama	425 Encore - Drama
Golf Channel						426 Encore - WAM	426 Encore - WAM
Great American Country	173					427 Encore - Westems	427 Encore - Westems
GSN (Game Show Network)	49						



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE METROPLITAN POLICE

\*Mt. Horeb Telecom Web site: <http://www.mhtc.net/>

\**Capital Times*, "More bad news about cable TV: Prices to go up" November 1, 2007





Prepared Remarks of Larry F. Darby  
Darby Associates – Washington, DC

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Hearing before the Wisconsin State  
Senate Committee on Commerce, Utilities and Rail  
December 20, 2007

Good afternoon Mr. Chairman and members of the Committee. Thank you for the opportunity to talk with you about consumers' interests in markets for cable distribution and program production and, very importantly, the role of government in offsetting clear market imperfections. I was asked and agreed to focus on markets for cable programming and how current industry practices impact independent program producers and consumers.

Qualifications. My name is Larry Darby. I am an economic and financial analyst with a background government, academia, business and investment banking. I head a small consulting firm, Darby Associates, specializing in business and policy issues at the intersection of technology, law and markets. I was Senior Economist in the Executive Office of the President, then Chief Economist and Bureau Chief at the Federal Communications Commission before spending five years on Wall Street as VP in Lehman Brothers telecom investment banking group. I teach economics, finance, and regulation at the graduate level, consult to several public and private organizations, and have written extensively on information technology matters. I am on the board of the American Consumer Institute Center for Citizen Research, an institute committed to advancing consumer interests in public policy fora like this one. I am speaking today on behalf of myself. My work in these matters is supported by the NFL.

Overview of Statement. Senate Bill 343 invokes mandatory arbitration as a means of resolving carriage disputes between cable operators and independent program suppliers. The bill addresses a current market failure that reduces consumer welfare. My remarks will reflect my support for that general approach. In that context I will address the following questions.

- *What is the consumer interest in this legislation?*
- *Are markets for cable television services "workably competitive"?*
- *Do cable companies discriminate in favor of their own programs?*
- *Should government intervene on behalf of consumers?*
- *What are the merits of Final Offer Arbitration in this context?*

I will try to be brief in order to save time to respond to your questions.





Consumers have a substantial interest in this legislation. Consumers have a huge stake in cable programming. They spend a large share of their waking hours watching television. The Federal Communications Commission (FCC) reported that the average household in recent years has tuned into television for over 8 hours a day, while the average family member watches television about four and a half hours daily. Senior citizens and below average income households exceed these averages. According to the American Association for Retired Persons, senior citizens average five and a half hours per day. The FCC reports that more than half of this is cable program viewing time.

Consumers spend a significant share of their income on cable television services and television equipment. According to Consumer Expenditure Surveys done by the U.S. Bureau of Labor Statistics, spending per household on cable television service amounted in 2005 to about \$520 per year. Seniors age 65-74 spent even more. Average expenditure is well over 1% of average household income for all households and substantially more for households headed by seniors or below average income consumers. The average household spent another \$105 on television equipment. As measured by overall consumer expenditure, share of income, or time devoted to it, cable television programming is a high priority consumer service and vital to their individual and collective well-being.

Markets for cable television services are not yet "workably competitive". The range of program choices available to consumers is now determined for the most part by cable companies that also own significant shares of the programming they carry. Congress has passed laws designed to make sure that Americans have access to diverse program sources and, in particular, to programming in which cable television companies do not have an economic interest. You will be told that "...the video market is fully competitive." That is a talking point of the cable industry's brief. But, before accepting it at face value, you should consider the facts that support, or in many cases, refute that categorical assertion.

There are two kinds of competition to cable systems – "intramodal" competition from other cable systems or "intermodal" competition from other technology platforms. There is very little "cable to cable competition" among rival cable companies. Cable systems have long been regarded as natural monopolies and few entrants have emerged to challenge incumbents with competing cable systems. In this context the FCC concluded categorically: "In the vast majority of communities, cable competition simply does not exist." Very few consumers can choose between competing cable companies.

Other program delivery platforms and providers – satellite, telephone, utility company, and municipalities — can deliver content to consumers. *Some* are present in *some* markets for *some*



consumers. Some consumers do, but most American households do not, enjoy the option of choosing from them. Much is made of the existence of these platforms by advocates of the view that "Cable is fully competitive!" But the most recent data from the FCC indicates that an overwhelming majority of Americans still rely on cable as their video program provider. Approximately 65 million households, or almost 70% of those who subscribe to an MVPD (multichannel video programming distributor) service, are cable subscribers. Direct broadcast satellite companies capture nearly thirty percent. Other platforms, including those provided by telcos, power companies or municipalities account for about 3%. Wireless video over cellular systems will grow, but is now negligible. (Data from FCC 2006 Report on Media Competition.)

In support of claims that "Cable is fully competitive!" advocates cite the presence and plans of telephone companies in the video distribution market. But, the facts suggest more plans and prospects than telco presence in the marketplace. At the end of the third quarter of this year, the AT&T U-verse system was available to fewer than five percent of US homes and had captured only 125,000 subscribers, the great majority of which are in Texas. By the same date Verizon reported signing up 717,000 customers for its fiber-based video service. Efforts of municipalities and power companies are cited as competitors of cable. But, they address scattered markets and fewer than 1% of US households.

It simply is not true that local video markets are fully competitive or, in many instances, even workably so. Cable operators have market power over price, programming and service quality – market power that is neither checked, nor substantially altered, by competition from other MVPD services. Some Americans have a choice of video program distributors. Many do not.

Several independent studies establish the existence of cable market power in distribution and related benefits of more open entry and intermodal rivalry. Consumers consistently express a preference to be able to choose between services of both legacy monopoly cable and telephone providers. And, they vote with their dollars when provided that opportunity. Cable rates, when unrestrained by competition, tend to go up faster, and in many cases, much faster than prices for other goods and services. US Bureau of Labor Statistics data indicate that cable rates have increased in the past decade about two and a half times as fast as the overall rate of inflation. Cable subscribers in Wisconsin have been subject to similar exercises of cable operator power over price. A survey this year of about two dozen Wisconsin communities found cable increases well above inflation rates.<sup>1</sup>

Independent experts outside the cable industry agree that cable rates reflect market power and are higher where there are no wireline alternatives. Where there is competition, cable rates tend to flatten or

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 1, 1861. It is a very important document, as it sets out the President's views on the state of the Union and the course of action he proposes to take.

2. The second part of the document is a report from the Secretary of the Treasury, dated January 1, 1861. It contains a detailed account of the financial state of the country, and the measures proposed to meet the country's needs.

3. The third part of the document is a report from the Secretary of the Interior, dated January 1, 1861. It contains a detailed account of the state of the public lands, and the measures proposed to manage them.

4. The fourth part of the document is a report from the Secretary of the Navy, dated January 1, 1861. It contains a detailed account of the state of the Navy, and the measures proposed to improve it.

5. The fifth part of the document is a report from the Secretary of the War, dated January 1, 1861. It contains a detailed account of the state of the Army, and the measures proposed to improve it.

6. The sixth part of the document is a report from the Secretary of the State, dated January 1, 1861. It contains a detailed account of the state of the Department of State, and the measures proposed to improve it.

decline in the face of alternatives, while service quality and diversity improves as rivals vie for subscribers' favor.

*Cable firms discriminate against independent producers and in favor of their own programs.*

Large cable companies are vertically integrated into programming and are major providers of the content their systems offer. The FCC found in 2005 about 500 national programming networks. One in five was vertically integrated with one or more cable operators. Five of the top seven cable firms (Comcast, Time Warner, Cox, Cablevision, and Advance/Newhouse) held ownership interests in national program networks. Six of the top 20 non-broadcast video programming networks (ranked by subscribership) are vertically integrated with a cable operator. Of the 96 regional networks identified by the FCC, 44 networks (45.8 percent) were vertically integrated with at least one cable operator. Comcast has ownership interests in 14 (14.6 percent) regional networks. Cablevision has ownership interests in 13 (13.6 percent) regional networks. Time Warner has ownership interests in 10 (10.4 percent) regional networks. Cox has ownership interests in six (6.2 percent) regional networks.

Vertical integration may create efficiencies in production, distribution and marketing, but substantial downside costs are also well established in principle and practice. Drawing on a wealth of scholarly research, the FCC has concluded that detrimental effects of cable integration of program production and distribution "...can include unfair methods of competition, discriminatory conduct, and exclusive contracts that are the result of coercive activity."

The record is replete with largely uncontested indications of the exercise of market power by integrated cable/program suppliers via discrimination against independent program suppliers.<sup>2</sup> While differentiation in terms, product characteristics, prices and other elements of marketplace offers are commonplace and not *per se* objectionable, differentiation based solely, or substantially, on the affiliation of a customer or supplier, and without regard to comparative merits, is not in consumers' interest. It deprives them of options many would choose were they given the opportunity.

Economic discrimination by integrated cable operators takes both price and non-price forms of differentiation in terms offered affiliates vis-à-vis those offered independent program producers. Non-price discrimination involves imposition of "special" conditions on independent program suppliers, conditions that are not imposed on the operators' own program services.



According to testimony from numerous independent programmers, integrated cable operators frequently require independently produced programs, but not programs produced by affiliates, be substantially funded, "launched", or have other carriage agreements in place as conditions precedent to being carried on the cable network. Those requirements may be fatal, since investors like the comfort of carriage agreements covering a large subscriber base as a condition of providing financial support. Other discriminatory practices reported by independents include tiering or packaging that gives preferences to cable's own program affiliates. Independent programmers also report that cable operators insist on being awarded an equity stake in the subject programming as a condition of carriage.

To clarify the extent of price discrimination by integrated cable operators against independent program suppliers, we further analyzed evidence provided to the FCC by Hallmark Channel. The data compared fees paid by cable operators to different suppliers (an indicator of the value cable operators associated with the programming) to the Nielsen ratings for those same programming services (an indicator of public or consumer value assigned to the same programming). The differences establish the presence and scope of discrimination by Time Warner and Comcast in favor of their own affiliated programming services and against Hallmark programs.

Discrimination is reflected in a comparison of a) fees paid for and b) audience attracted by affiliated vs. nonaffiliated programming. The number of viewers is the major principal metric of the value of different programs. Consumers vote with their eyes. Although license fees need not reflect precisely the number of viewers, there is no reason to suppose that ownership of the programming should from a consumer perspective be a more important determinant of value than the audiences it attracts. Yet, that is precisely what the data suggest.

Hallmark Channel receives from cable operators, on average, three cents per cable subscriber for programming that is accorded by Nielsen a Prime Time Household rating of 1.1, which is defined by Nielsen as the "estimated percentage of the universe of TV households tuned to a program in the average minute." Concurrently (measured in April, 2007), Time Warner paid its CNN affiliate 44 cents (more than 14 times the average fee paid to Hallmark) for programming that attracted a Nielsen rating of 0.7. Thus, Time Warner paid its affiliate a fee 14 times greater for a prime time audience about 2/3 as great. Similarly, Comcast paid its affiliate (*G4 videogame tv*) twice as much for 20 percent of the audience attracted by Hallmark. Comcast paid its affiliated Golf Channel more than seven times the fee paid Hallmark for an audience less than twenty percent of Hallmarks' average prime time household viewers.





Most carriage agreements contain "most favored nation" clauses leading to price uniformity among major cable systems for a particular channel or program source. The Hallmark data are likely to reflect closely the structure and level of fees in carriage contracts for other independents. In short, the discrimination measured here appears to be a reasonable proxy for relations between integrated cable companies and other independent program suppliers.

The table below is derived from Hallmark data on fees paid for, and audiences attracted by, different program services. It shows first the results of dividing the average license fee paid to programmers by the program's Nielsen audience rating. That is a proxy for price paid per viewer for different services. Secondly, it expresses these proxies for "prices paid per viewer" for different services as a multiple of the price paid to Hallmark, the independent, non-affiliated program supplier.

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**INDEX OF ANTICOMPETITIVE CABLE DISCRIMINATION**  
Payment for Affiliated Vs. Independent Programming

CHANNEL	Affiliation	Fee per Prime Time Rating Point	Prime Time Payment Multiple
TNT	TW	0.49	18X
CNN	TW	0.63	23X
TBS	TW	0.33	12X
Cartoon Network	TW	0.13	5X
Court TV	TW	0.08	3X
Golf Channel	Comcast	1.15	42X
E!	Comcast	0.50	18X
style.	Comcast	0.60	22X
G4 Video Game	Comcast	0.30	11X
Hallmark Channel	Independent.	0.03	1X

Source: Calculated by American Consumer Institute from Hallmark data submitted to the Federal Communications Commission.

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The last column indicates multiples of fees paid per viewer for affiliated programming versus fees paid per viewer for the independent programmer. In *all* cases the multiple exceeds three and ranges frequently into the twenties and beyond. The multiples indicate the premium paid to affiliates, but they are also an index of the degree of discrimination against non-affiliated programmers.

The differences in prices paid reflect the business objectives of the cable companies involved, *not* consumer valuations of the different programs.



Government should intervene on behalf consumers' interest in diverse programming. Recent studies of market data by competent, disinterested analysts of the structure, conduct and performance of cable system operators in markets for video program production and distribution are virtually unanimous on the question of cable market power over price and programming. It is fair to conclude from them that:

- There are serious imperfections in video program production and distribution markets;
- Market failures do now and will continue to impose costs on consumers;
- Regulatory and adjudicatory interventions are not adequate to protect consumers; and,
- Diversity and consumer choice in cable video programs being reduced substantially by market failures that are not fully offset by government action.

The basis for finding the incentive and ability of integrated suppliers to discriminate in the program market in ways that disserve consumers is diverse. Studies by the U.S. Government Accountability Office, FCC-sponsored studies, the FCC itself and scholars from academia, have found a) existence of cable firm market power, b) incentives for them to exercise it, and c) its actual exercise by vertically integrated cable systems in dealings with unaffiliated program suppliers.

Everywhere but in economics textbooks, firms have market power. Markets are never perfect. But, they need not be perfect, only that they work as well as or better than government planning and controls. Experience testifies loudly and clearly that well-meaning government remedies for market imperfections too often occasion side effects from unintended, unanticipated consequences whose costs dwarf any conceivable benefits.

Government's task here is one of harmonizing the imperfections of market processes with the infirmities of government interference in those processes. Inasmuch as government regulation is no sure antidote to market failure, your challenge is twofold: a) to identify the worst of market infirmities, and b) to apply only the most efficient, least-costly government remedies. I believe that final offer arbitration of the sort you are now considering is just such a remedy.

Final Offer arbitration is the solution to this market failure. It is an approach that has already been tried and by all indications has been quite successful. *Final offer* arbitration was adopted earlier by the FCC to resolve similar disputes between program distribution platform owners – both satellite and



cable networks – when it simply ordered the parties who are unable, for whatever reason, to forge program carriage agreements in private negotiations to submit to *final offer* arbitration.

There are several advantages to *final offer* arbitration compared to other forms of dispute resolution. The most notable is inherent in the incentive structure imposed on parties that heretofore were unable for whatever reason to reach an agreement. Disputants are impelled by the threat of failure to propose resolutions that are acceptable to them, rather than those that are most desirable. This fact alone brings the parties closer together.

*Final offer* arbitration eliminates differences in market power and financial resources between parties; it shortens the time needed to resolve disputes and hastens consumer receipt of benefits. It eliminates advantages to either party and costs to consumers, of delay, obfuscation, refusals to deal or bargain in good faith. Very importantly, *final offer* arbitration eliminates the exercise of buying power owing to one party's control over valuable assets – either distribution networks or specialized content – and helps to assure that consumers will not be forced to pay for the exercise of that power in the form of higher prices, lower quality programming and/or fewer options.

An ironic benefit of compulsory *final offer* arbitration is the prospect for diminished use of the process over time, as a result of firms finding it advantageous to negotiate settlements rather than to “roll the dice” and risk losing in an all-or-nothing gamble.

Knowledge of the results of previous arbitration combines over time yield *de facto* rules that effectively define “fair market value”; increases the prospect for successful negotiations; and, decreases the complexity of *final offer* arbitration if and when a party demands it.

Use of *final offer* arbitration requires fewer legal and other resources than typically used by other dispute resolution mechanisms. The process will benefit large and small independent programmers who are relieved of the need to meet difficult burdens of proof of discrimination that often require information to which they have no access in order to prove violations of the law by cable operators. *Final offer* arbitration shifts the focus of public policy to timely and economic solutions, and away from fault finding, proof, gaming regulatory processes and time-consuming litigation.

These and other advantages confer consumer benefits in the form of more timely resolution, lower cost, more certainty, more diversity, and, in the aggregate, greater sovereignty in program choice. That concludes my prepared remarks. Thank you again. I am happy to answer any questions.



## NOTES

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<sup>1</sup> Rate changes in selected Wisconsin markets are summarized below. They are available online at: <http://www.wewantchoicewi.com/ratesupimage.html>. Appleton: 10.7% since 2005; Baraboo: 6.5% since last year; Beloit: 5.2% since last year; De Pere: 96% since 1996; Dodgeville: 13.3% since last year; Fond du Lac: 6.7% since last year; Fort Atkinson: 6.5% since last year; Green Bay: 237% since 1996; Hartford: 6.7% since last year; Kenosha: 76.6% since 1999; La Crosse: 8.8% since last year; Manitowoc: 140% since 1999; Marinette: 10.7% since 2005; Oshkosh: 10.7% since 2005; Portage: 6.5% since last year; Rhinelander: 94% since 2000; Ripon: 6.7% since last year; Superior: 43% since 2001; Wausau: 84% since 2001; West Bend: 6.7% since last year; Whitewater: 6.5% since last year; and, Wisconsin Rapids: 114% since 2002.

<sup>2</sup> Several independent programmers responded to the FCC's inquiry addressing conditions in the video distribution and programming markets (Notice of Proposed Rulemaking in the Matter of Leased Commercial Access and Development of Competition and Diversity in Video Programming Distribution and Carriage (MB Docket # 07-42). The comments detailed various discriminatory, non-pricing techniques applied to independent programmers vis-à-vis cable affiliates. A good sample of those claims is included in the comments of the National Alliance for Media Arts and Culture (NAMAC) and those of the America Channel. (Available online from the FCC web site.)

